BY-LAW NUMBER XX-2021

A BY-LAW TO IMPOSE DEVELOPMENT CHARGES

Passed the XX day of January, 2021.

WHEREAS the *Development Charges Act, 1997*, S.O. 1997, c. 27 provides that the council of a municipality may pass by-laws for the imposition of development charges against land for increased capital costs required because of the needs for services arising from development in the area to which the by-law applies;

AND WHEREAS the Council of The Corporation of the City of Windsor has given notice in accordance with section 12 of the said Act, of its intention to pass a by-law under section 2 of the said Act;

AND WHEREAS the Council of The Corporation of The City of Windsor has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charges proposal at a public meeting held December 7, 2020;

AND WHEREAS by resolution adopted by Council of The Corporation of the City of Windsor on December 7, 2020 Council determined that no further public meetings were required under Section 12 of the said Act;

AND WHEREAS the Council of the Corporation of The City of Windsor completed and had before it a report, entitled Development Charges Background Study, dated November 5, 2020, prepared by Hemson Consulting Limited;

AND WHEREAS by resolution adopted by Council of The Corporation of the City of Windsor on December 7, 2020, Council has indicated that it intends to ensure that the increase in the need for services attributable to the anticipated development, including any capital costs, will be met, by updating its capital budget and forecast where appropriate;

NOW THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. DEFINITIONS

In this by-law

"Act" means the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended;

"Agreement" means an agreement entered into pursuant to the provisions of s.26.1 (11), 26.2(7) or 27 of the Act;

"**brownfield**" means a property where a phase two environmental site assessment has been conducted, and that as of the completion date the phase two environmental site assessment, the property did not meet the requirements of s. 168.4(1)4. of the *Environmental Protection Act* so as to permit a Record of Site Condition (RSC) to be filed in the Environmental Site Registry for the proposed use of the property.

"Chief Administrative Officer" means the Corporation's Chief means the Corporation's Chief Administrative Officer from time to time or their delegate;

“Chief Building Official” means the Corporation’s Chief Building Official from time to time or their delegate;

“Chief Financial Officer” means the Corporation’s Chief Financial Officer from time to time or their delegate;

“City Clerk” means the Corporation’s City Clerk from time to time or their delegate;

“City Solicitor” means the Corporation’s City Solicitor from time to time or their delegate;

“**complete application**” means the date all requirements of an application for Site Plan Approval or Zoning By-law Amendment have been met and the application is deemed complete by the City;

“Corporation” means the body corporate referred to as The Corporation of the City of Windsor;

“Council” means the Council of the Corporation;

“deferred development types” means all or any one of the following:

a) Non-profit housing development;

b) Rental housing development that is not non-profit housing development; and

c) Institutional development;

“development” includes redevelopment;

“development charge(s)” means the charges imposed pursuant to this bylaw and adjusted in accordance therewith;

“development charges background study” means the Development Charges Background Study prepared by Hemson Consulting Ltd. dated November 5, 2020;

“double duplex dwelling” means one (1) dwelling divided into four (4) dwelling units by vertically attaching two (2) duplex dwellings with no direct internal connection between the dwelling units;

“duplex dwelling” means one (1) dwelling divided horizontally into two (2) dwelling units with no direct internal connection between the dwelling units;

“dwelling” means a building or structure that is occupied for the purpose of human habitation. A correctional institution, hotel, motor home, recreational vehicle, tent, tent trailer, or travel trailer is not a dwelling;

“dwelling unit” means a unit that consists of a self-contained set of rooms located in a building or structure, that is used or intended for use as residential premises, and that contains kitchen and bathroom facilities that are intended for the use of the unit only;

“gross floor area” means the total area of all floors of a dwelling unit or non-residential development as the case may be, measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit or non-residential development from another dwelling unit or non-residential development or other portion of a building, including area above, below, or at grade;

“group home” means one (1) dwelling that is:

a) For the accommodation of six (6) to ten (10) persons, exclusive of staff;

b) For persons living under supervision in a single housekeeping unit and who require a group living arrangement for their well-being; and

c) Licensed or funded by the federal, provincial or municipal government.

“industrial use” means one (1) or any combination of the following:

a) One (1) or more main use identified as an “industrial activity” in the definition of that use in the Corporation’s Zoning By-law 8600;

b) One (1) or more of the following industrial activities as a main use: assembling, constructing, manufacturing, packaging, processing, producing, and/or shipping;

“infill development” means residential or non-residential development in the area shown on Schedule “C”;

“**Institutional development**” has the same meaning as in the Act and O. Reg. 82/98;

“lodging house” means one (1) dwelling in which a minimum of four (4) persons, not including staff, are provided with lodging for hire, with or without meals.

“multiple dwelling” means one (1) dwelling, other than a double duplex dwelling, row dwelling, or stacked dwelling, containing a minimum of three (3) dwelling units;

“non-deferred development types” means any development which is not Non-profit housing development, Rental housing development that is not non-profit housing development, or Institutional development;

“**Non-profit housing development”** has the same meaning as in the Act and O. Reg.82/98;

“non-residential use” means land, buildings or structures or portions thereof used or designed or intended for use for other than residential use, and includes lodging house, residential care facility, group home;

“**non-industrial use**” means any non-residential development that does not meet the definition of industrial use;

“O. Reg. 82/98” means Ontario Regulation 82/98 as amended, pursuant to the Act;

“other residential dwelling” or “Other” means one (1) dwelling, other than a lodging house, residential care facility, row dwelling, semi-detached dwelling, group home, single-detached dwelling, containing a minimum of two (2) dwelling units. A double duplex dwelling, duplex dwelling, multiple dwelling, or stacked dwelling is an “other residential dwelling”;

“owner” means the owner of land or a person who has made application for approval for the development of land upon which a development charge is imposed;

“**Rental housing development that is not non-profit housing development**” has the same meaning as in the Act and O. Reg. 82/98;

“residential care facility” means one (1) dwelling that is:

a) For the accommodation of eleven (11) or more persons, exclusive of staff;

b) For persons requiring supervised or assisted living arrangements; and

c) Licensed or funded by the federal, provincial or municipal government.

A long-term care facility is a “residential care facility”.

“residential use” means lands, buildings or structures used, or designed or intended for use as a residence for one or more individuals, and shall include, but is not limited to, single detached dwelling, semi-detached dwelling, row dwelling, and other residential dwelling;

“row dwelling” or “row” means one (1) dwelling vertically divided into a row of three (3) or more dwelling units attached by common interior wall but no other parts are attached to other buildings, and may include, where permitted by Section 5.99.80 in Zoning By-law 8600, additional *dwelling units*;

“Sandwich South Planning District” means the geographic area defined as the Sandwich South Planning District as set out in Schedule A of the Corporation’s Official Plan, excluding parts of the Lands of the Windsor International Airport, and more specifically shown on Schedule D attached hereto;

“semi-detached dwelling” or “semis” means one (1) dwelling divided vertically into two (2) dwelling units by a common interior wall but no other parts are attached to other buildings, and may include, where permitted by Section 5.99.80 in Zoning By-law 8600, up to two additional dwelling units;

“services” means services described in the development charges background study and designated in section 2 of this by-law;

“shelter” means a lodging house used exclusively for the provision of temporary accommodation to individuals who need ancillary health care, counselling and social support services;

“single detached dwelling” means one (1) dwelling, other than a mobile home dwelling, having one (1) dwelling unit or, where permitted by Section 5.99.80 in Zoning By-law 8600, one dwelling having two dwelling units, that is not attached to other buildings; and

“stacked dwelling” means one (1) dwelling consisting of a row of three (3) or more dwelling units having one (1) or more dwelling units located above them, with all dwelling units having individual exterior entrances.

2. DESIGNATION OF SERVICES

The categories of services for which development charges are established and imposed under this by-law are as described in Schedules A and B.

3. AREA TO WHICH BY-LAW APPLIES

(1) Except as specifically indicated otherwise in this by-law, all provisions of this by-law apply to all land in the geographic area of the City of Windsor.

(2) This by-law shall not apply to lands that are owned by and used for the purpose of:

a) The Corporation;

b) A school board as defined in Section 1(1) of the *Education Act*.

APPLICATION

4. Subject to the provision of Sections 12, 13, 14, 15 and 16, development charges shall be payable in accordance with Section 6, 7, 8, 9, 10 and 11 of this by-law where development requires any of the approvals set out in section 5 of this by-law.

5. Subject to section 3 development charges are hereby imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires:

a) The passing of a zoning by-law or an amendment thereto under section 34 of the *Planning Act*;

b) The approval of a minor variance under section 45 of the *Planning Act;*

c) A conveyance of land to which a by-law passed under section 50(7) of the *Planning Act* applies;

d) The approval of a plan of subdivision under section 51 of the *Planning Act*;

e) A consent under section 53 of the *Planning Act*;

f) The approval of a description under section 50 of the *Condominium Act*; or

g) The issuing of a permit under the *Building Code Act, 1992,* in relation to a building or structure.

DETERMINATION OF DEVELOPMENT CHARGES

6. Amount of Development Charges

(1) Development charges shall be imposed against residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential dwelling unit, and calculated with respect to each of the services set out in section 2.

(2) Development charges shall be imposed against non-residential uses of lands, buildings or structures, and in the case of a mixed-use building or structure upon all non-residential uses in the mixed-use building or structure, according to the amount of non-residential gross floor area of such building or structure, and calculated with respect to each of the services set out in section 2.

(3) Subject to the provisions of Sections 12, 13, 14, 15 and 16 the amount of the development charges, shall be calculated in accordance with the rates set out in Schedule “A”.

(4) Despite the provisions of subsection 6(3), and subject to the provisions of Sections 12, 13, 14, 15 and 16, the amount of the development charges in

the Sandwich South Planning District shall be calculated in accordance with the rates set out in “Schedule B”.

7. Calculation Date of Development Charges

(1) Development charges applicable to development shall be calculated as of:

a) The date of a complete application for Site Plan Approval in respect of the land to which the development charges apply; or

b) If subsection 7(1)(a) does not apply, the date of a complete application for Zoning By-law Amendment in respect of the land to which the development charges apply; or

c) If neither subsection 7(1)(a) nor subsection 7(1)(b) applies, the date a building permit is issued in respect of the land to which the development charges apply.

Subsection 7(1)(a) and 7(1)(b) do not apply if, on the date the development charge or first development charge installment for the development is payable, is more than two (2) years after the application referred to in subsection 7(1)(a) or 7(1)(b) was approved.

8. Payment Date of Development Charges

(1) For all non-deferred development types:

a) Development charges applicable to non-deferred development shall be payable and collected on the date a building permit is issued in respect of the land for which the building permit was issued.

b) If either subsection 7(1)(a) or 7(1)(b) applies, then interest charges as indicated in section 9 shall be applied to the development charges.

(2) For deferred development types:

a) Development charges applicable to deferred development types shall be payable and collected in equal annual installments in accordance with the provisions of s.26.1 of the Act. Interest charges as indicated in section 9 of this by-law shall be applied to the development charges paid by installments starting from the complete application date where 7(1)(a) or 7(1)(b) apply or, at building permit issuance where 7(1)(a) or 7(1)(b) do not apply, until the date of payment of each installment.

b) Any unpaid amounts, including any interest payable, shall be added to the owner’s property taxes.

(3) If any part of the development is changed so that it no longer consists of a deferred development type, the development charge, including any interest payable, but excluding any installments already paid, shall be paid immediately.

9. Interest Rates

(1) For all non-deferred development types:

Interest, at the annual interest rate, compounded annually, as specified in the Corporation’s Fees and Charges By-law as amended, shall be applied to the development charges starting on the complete application date until the date of payment.

(2) For deferred development types:

Interest, at the annual interest rate, compounded annually, as specified in the Corporation's Fees and Charges By-law as amended, shall be applied to the development charges paid in installments starting on the complete application date where 7(1)(a) or 7(1)(b) apply or, at building permit issuance where 7(1)(a) or 7(1)(b) do not apply, until the until the date of payment of each installment.

10. Early Payment Agreement

(1) Those required to pay development charges may request the Corporation to enter into an agreement with them for the early payment of development charges. Such agreements are pursuant to the provisions of section 26.1(11) or section 26.2(7), and section 27 of the Act, and are authorized by the provisions of this by-law.

(2) The Chief Administrative Officer and City Clerk are authorized to execute the early payment agreements in form satisfactory to the Chief Building Official, Chief Financial Officer and City Solicitor.

(3) Where an agreement pursuant to subsection 10(1), has been executed by those required to pay development charges, the agreement applies in lieu of section 8 of this by-law.

11. Indexing

The amounts of development charges in this by-law shall be adjusted annually, without amendment to this by-law, commencing on November 1, 2021 and on each anniversary date thereafter, in accordance with the most recent annual change in the Statistics Canada Non-residential Building Construction Price Index for Toronto.

Partial Exemptions

12. Brownfield Redevelopment

(1) Despite Section 6 of this by-law, an exemption up to a maximum of 60% of the development charges otherwise payable, may be requested by a person undertaking brownfield redevelopment in the area described as the Community Improvement Project Area in the Brownfield Redevelopment Community Improvement Plan.

(2) Where a request is made under subsection (1) the partial exemption from development charges shall only be given where the following conditions have been complied with:

i. the Brownfield Rehabilitation Grant Program application as described in the Brownfield Redevelopment Community Improvement Plan has been approved and the associated Agreement has been executed; and

ii. the Record of Site Condition has been filed in the Environmental Site Registry for the proposed brownfield redevelopment and the Ministry of the Environment has acknowledged receipt of the Record of Site Condition.

(3) The development charges exemption referred to in subsection (1) shall be calculated by deducting eligible costs, as approved and verified under the Brownfield Rehabilitation Grant Program described in the Brownfield

Redevelopment Community Improvement Plan, from the development charges otherwise payable with respect to such redevelopment, up to the maximum referred to in subsection (1).

(4) In this section "eligible costs" means the costs of one or more of the following;

a) Phase II Environmental Site Assessment, Remedial Work Plan, and Risk Assessment not covered by the Environmental Site Assessment Grant Program or the Brownfields Tax Assistance Program;

b) environmental remediation, including the cost of preparing a Record of Site Condition, not covered by the Brownfields Tax Assistance Program;

c) placing clean fill and grading not covered by the Brownfields Tax Assistance Program;

d) installing environmental and/or engineering controls/works, as specified in the Remedial Work Plan and/or Risk Assessment, not covered by the Brownfields Tax Assistance Program;

e) monitoring, maintaining and operating environmental and engineering controls/works, as specified in the Remedial Work Plan and/or Risk Assessment, not covered by the Brownfields Tax Assistance Program;

f) environmental insurance premiums not covered by the Brownfields Tax Assistance Program.

(5) The partial exemption under this section may be given in addition to any other credit or partial exemption provided in this by-law. In no event shall the total amount of the exemption under this section plus other credits or exemptions provided in this by-law exceed the amount of the development charges otherwise payable with respect to the redevelopment.

13. Exemptions

Despite Section 6 of this by-law, development charges shall not be imposed where the development:

a) Is limited to the enlargement of an existing dwelling unit;

b) Is limited to the creation of additional dwelling units as prescribed under *O.Reg. 82/98*, subject to the prescribed restrictions, in prescribed classes of existing residential buildings or prescribed structures ancillary to existing residential buildings;

c) Is limited to the creation of additional dwelling units in proposed new residential buildings as prescribed under *O.Reg. 82/98*, including structures ancillary to dwellings, subject to the prescribed restrictions;

d) Is for the conversion of existing buildings from a commercial, institutional or industrial use to a residential use;

e) Is a parking garage or portions of developments devoted exclusively to parking;

f) Is for an industrial use; or

g) Is for land, buildings or structures owned by and used or to be used for a college or university as defined in section 171.1 of the Education Act, and used for the purposes set out in such Act.

14. Infill Development

(1) Despite Section 6 of this by-law, any infill development occurring within an area designated under “Schedule C” of this by-law will be subject to a full exemption of development charges payable.

(2) The boundaries in “Schedule C” may be modified arising from a comprehensive Planning Study, as approved by Council, without amendment to this by-law and this by-law shall apply to such amended boundaries.

15. Redevelopment

(1) Despite Section 6 of this by-law, where the use of a building or structure is being converted from one principal use to another, and there is no increase in gross floor area, then no development charges are payable hereunder.

(2) Despite Section 6 of this by-law, where the use of a building or structure is being converted from one principal use to another, and there is an increase in gross floor area, then development charges are payable only for such increased gross floor area.

16. Demolition Credit

(1) Where a building or structure has been demolished or is to be demolished in whole or in part, a demolition credit shall be given as provided herein for such demolished building or structure or part thereof against development charges otherwise payable with respect to development of the same property;

(2) The demolition credit shall be given only where the date of demolition is five years or less prior to the date of issuance of a building permit. The date of demolition shall be the date of issuance of the demolition permit.

(3) The demolition credit shall be calculated in accordance with Section 6 and shall be based upon the use or gross floor area as applicable, of the demolished building or structure on the date of demolition thereof;

(4) In no event shall the amount of the demolition credit herein exceed the amount of development charges otherwise payable with respect to development.

17. Oversizing of Services Credit

(1) Where a person, at the request of the Corporation oversizes any services, the Corporation may give an oversizing of services credit as provided herein against development charges otherwise payable with respect to development on the person's land services by such oversized services.

(2) Any oversizing of services credit given pursuant to this section is a credit only in relation to the category of services to which the oversizing relates.

(3) In no event shall the amount of the oversizing of services credit herein exceed the amount of the category of services to which the oversizing relates of the development charges otherwise payable with respect to the development of the person's lands services by such oversized services.

18. Schedules “A”, “B”, “C”, and “D”, attached hereto together with all notations, references and other information shown thereon, and as may be amended in accordance with section 14, form part of this by-law.

19. This by-law shall be enforced by the Chief Building Official.

20. This by-law shall expire five (5) years from the date it comes into force and takes effect.

21. By-law 60-2015, as it relates to all servicing with the exception of Parking, is hereby repealed on the XX day of January, 2021.

22. This by-law shall come into force and take effect on the XX day of January, 2021.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - January XX, 2021
Second Reading - January XX, 2021
Third Reading - January XX, 2021